

RESOLUTION NUMBER 3188

RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF PERRIS TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2004-2 (CLC-TM 31241) OF THE CITY OF PERRIS AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 2004-2 (CLC-TM 31241) OF THE CITY OF PERRIS

WHEREAS, the City Council (the “Council”) of the City of Perris (the “City”) has received a petition (including consent and waiver) (the “Petition”) requesting the institution of proceedings for formation of a community facilities district (the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the “Act”); and

WHEREAS, the Council has determined that the Petition complies with the requirements of Government Code Section 53318 and now intends to form Community Facilities District No. 2004-2 (CLC-TM 31241) of the City of Perris; and

WHEREAS, the Council desires to adopt this resolution of intention as provided in Section 53321 of the Act to establish a community facilities district consisting of the territory described in Exhibit “A” hereto and incorporated herein by this reference, which the Council hereby determines shall be known as “Community Facilities District No. 2004-2 (CLC-TM 31241) of the City of Perris” (the “Community Facilities District No. 2004-2” or the “District”) pursuant to the Act to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of certain real or other tangible property described in Exhibit “B” hereto and incorporated herein by this reference, including all furnishings, equipment and supplies related thereto (collectively, the “Facilities”), which Facilities have a useful life of five years or longer; and (2) the incidental expenses to be incurred in connection with financing the Facilities and forming and administering the District (the “Incidental Expenses”); and

WHEREAS, it is the intention of the Council to consider financing the Facilities and the Incidental Expenses through the formation of Community Facilities District No. 2004-2 and the sale of bonded indebtedness in an amount not to exceed \$6,000,000 within the District and the levy of a special tax therein to pay for the Facilities and the Incidental Expenses and to pay debt service on the bonded indebtedness incurred by such District, provided that the bond sales and special tax levies are approved at an election to be held within the District;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. The above recitals are true and correct.

Section 2. The Council hereby determines to institute proceedings for the formation of a community facilities district under the terms of the Act. The exterior boundaries of the District are hereby specified and described to be as shown on that certain map now on file in the office of the City Clerk entitled “Proposed Boundaries of Community Facilities District No. 2004-2 (CLC-TM 31241) of the City of Perris,” which map indicates by a boundary line the extent of the territory included in the proposed community facilities district and shall govern for all details as to the extent of the District. On the original and one copy of the map of such District on file in the Clerk’s office, the Clerk shall endorse the certificate evidencing the date and adoption of this resolution. The Clerk shall file the original of such map in her office and, within fifteen (15) days after the adoption of this Resolution, the Clerk shall file a copy of such map so endorsed in the records of the County Recorder, County of Riverside, State of California.

Section 3. The name of the proposed District shall be “Community Facilities District No. 2004-2 (CLC-TM 31241) of the City of Perris.”

Section 4. The Facilities proposed to be financed by the District are public infrastructure facilities and other governmental facilities with an estimated useful life of five years or longer, which the City is authorized by law to construct, acquire, own or operate. The Council hereby finds and determines that the description of the Facilities herein is sufficiently informative to allow taxpayers within the proposed District to understand what the funds may be used to finance. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the District, issuing bonds and levying and collecting a special tax within the District. The Council hereby finds that the proposed Facilities are necessary to meet increased demands placed upon the City as a result of development occurring within the proposed District. Such Facilities need not be physically located within the District.

Section 5. Except where funds are otherwise available, it is the intention of the Council to levy annually in accordance with procedures contained in the Act a special tax (the “Special Tax”) sufficient to pay for the costs of financing the acquisition and/or construction of the Facilities and Incidental Expenses, including the principal and interest and other periodic costs on bonds or other indebtedness proposed to be issued to finance the Facilities and Incidental Expenses, the establishment and replenishment of reserve funds, the credit enhancement fees, the costs of administering the levy and collection of the Special Tax and all other costs of the levy of the Special Tax and issuance of the bonds, including any foreclosure proceedings, architectural, engineering, inspection, legal, fiscal, and financial consultant fees, discount fees, interest on bonds due and payable prior to the expiration of one year from the date of completion of facilities (but not to exceed two years), election costs and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, disclosure counsel, financing consultants and printing costs, and all other administrative costs of the tax levy and bond issue. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the District. In the first year in which such a Special Tax is levied, the levy shall include a sum sufficient to repay to the City all amounts, if any, transferred to the District pursuant to Section 53314 of the Act and interest thereon. The schedule of the rate and method of apportionment and manner of collection of the Special Tax is described in detail in Exhibit

“C” attached hereto and by this reference incorporated herein. The Special Tax is based upon the cost of financing the Facilities and Incidental Expenses in the District, the demand that each parcel will place on the Facilities and the benefit (direct and/or indirect) received by each parcel from the Facilities.

The Special Tax is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act. In the event that a portion of the property within the District shall become for any reason exempt, wholly or partially, from the levy of the Special Tax, the Council shall, on behalf of the District, increase the levy to the extent necessary upon the remaining property within the District which is not delinquent or exempt in order to yield the required payments, subject to the maximum tax. If special taxes of the District are levied against any parcel used for private residential purposes, (i) the maximum special tax rate shall not be increased over time except that it may be increased by an amount not to exceed two percent (2%) per year to the extent permitted in the rate and method of apportionment; (ii) such tax shall be levied for a period not to exceed forty (40) years commencing with Fiscal Year 2004-2005, as further described in Exhibit “C” hereto; and (iii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcels within the District by more than ten percent (10%).

Section 6. The special tax within the proposed District is based on the expected demand that each parcel of real property within the proposed District will place on the Facilities and on the benefit that each parcel derives from the right to access the Facilities. The Council hereby determines that the proposed Facilities are necessary to meet the increased demand placed upon the City and the existing infrastructure in the City as a result of the development of land proposed for inclusion of the District. The Council hereby determines the rate and method of apportionment of the special tax set forth in Exhibit “C” for the District to be reasonable.

Section 7. A public hearing (the “Hearing”) on the establishment of Community Facilities District No. 2004-2, the proposed rate and method of apportionment of the Special Tax and the proposed issuance of bonds by the District to finance the Facilities and the Incidental Expenses shall be held on March 9, 2004, at 6:00 p.m., or as soon thereafter as practicable, at the chambers of the City Council of the City of Perris, 101 North “D” Street, Perris, California 92570. Should the Council determine to form the District, a special election will be held within the District to authorize the issuance of bonds and the levy of the Special Tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the elections will be a landowner vote with each landowner who is the owner of record of land within the District at the close of the Hearing, or the authorized representative thereof, having one vote for each acre or portion thereof owned within the District. Ballots for the special election may be distributed by mail or by personal service.

Section 8. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the proposed District, may appear and be heard.

Section 9. Each City officer who is or will be responsible for the Facilities to be financed by the District, if it is established, is hereby directed to study the proposed District and, at or before the time of the above-mentioned Hearing, file a report with the Council, which is to be made a part of the record of the Hearing, containing a brief description of the Facilities and services by type which will in his or her opinion be required to adequately meet the needs of the District and his or her estimate of the cost of providing the Facilities and services, including an estimate of the fair and reasonable cost of all Incidental Expenses, including the cost of planning and designing the Facilities to be financed pursuant to the Act, the cost of environmental evaluations of such Facilities, all costs associated with the creation of the District, issuance of bonds, determination of the amount of any special taxes, collection of any special taxes, or costs otherwise incurred in order to carry out the authorized purposes of the City with respect to the District, and any other expenses incidental to the construction, completion and inspection of the authorized work to be paid through the proposed financing.

Section 10. The City may accept advances of funds or work-in-kind from any sources, including private persons or private entities, and is authorized and directed to use such funds for any authorized purpose, including any cost incurred in creating the District. The District may enter into an agreement to repay all of such funds as are not expended or committed for any authorized purpose at the time of the election on the levy of the Special Tax, if the proposal to levy such tax should fail, and to repay all of such funds advanced if the levy of the Special Tax shall be approved by the qualified electors of the District.

Section 11. The Clerk is hereby directed to publish a notice ("Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the proposed District. Such Notice shall contain the text or a summary of this Resolution, state the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed District as provided in Section 53324 of the Act and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least seven (7) days prior to the date of the Hearing.

Section 12. The Clerk may send a copy of the Notice of the Hearing by first-class mail, postage prepaid, to each registered voter and to each landowner within proposed District as shown on the last equalized assessment roll. Said mailing shall be completed not less than fifteen (15) days prior to the date of the Hearing.

Section 13. Pursuant to Section 53344.1 of the Act, the Council hereby reserves to itself, in its sole discretion, the right and authority by subsequent resolution to allow any owner of property within the District, subject to the provisions of Section 53344.1 of the Act and those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the District treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

Section 14. The voting procedure with respect to the establishment of the District and the imposition of the special tax shall be by hand-delivered ballot election.

ADOPTED, SIGNED and **APPROVED** this 27th day of January, 2004.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Margaret Re

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 3188 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 27th day of January, 2004, by the following called vote:

AYES: Landers, Motte, Rogers, Yarbrough, Busch
NOES:
ABSENT:
ABSTAIN:

City Clerk, Margaret Rey

EXHIBIT "A"
(RESOLUTION NUMBER 3188)

COMMUNITY FACILITIES DISTRICT NO. 2004-2 BOUNDARY

[TO BE ATTACHED]

EXHIBIT “B”
(RESOLUTION NUMBER 3188)

TYPES OF FACILITIES TO BE FINANCED BY
COMMUNITY FACILITIES DISTRICT NO. 2004-2

The General Description of the Improvements is as follows:

Streets, roadway improvements, including improvements to intersections or arterial highways, street lights, landscaping, sanitary sewers, water supply including sewer and water treatment facilities, and storm drainage, school facilities, impact fees and other fees.

This description of the public capital facilities is general in nature. The final nature and location of improvements and facilities will be determined upon the preparation of final plans and specifications. The final plans and specifications may show substitutes in lieu of, or modifications to, proposed work. Any such substitution shall not be a change or modification in the proceedings as long as the facilities provide a service substantially similar to that as set forth in the Report.

EXHIBIT "C"
(RESOLUTION NUMBER 3188)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

[TO BE ATTACHED]